REMARKS

Claims 1, 4-7, 9-13, and 16-26 remain pending in the present application. As none of the claims have been amended, Applicants easily assert that no new matter has been added.

Rejection Under §103

It appears that the Office maintains its rejections of Claims 1, 4-7, 9-13, and 16-22 under 35 USC §103 as being unpatentable over Duncan (USP 3489148) and of Claims 1, 4-7, 9-13, and 16-26 under 35 USC §103 as being unpatentable over Duncan in view of Buchalter (USP 3896807). Applicants continue to traverse each of the rejections for the reasons detailed in the Appeal Brief submitted on November 18, 2003. Based on these previously submitted arguments, Applicants respectfully submit reconsideration and withdrawal of the rejections under §103.

Double Patenting

The Office has rejected certain claims of the present application based on the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of US patents. The specific rejected claims with the respective US patent over which the same claims have been rejected are:

1. Claims 1, 4-7, 9-13, 15-23, and 25-26 stand rejected over claims 1-29 of US Patent 6118041;
2. Claims 1, 4-7, 9-13, 15-23, and 26 stand rejected over claims 1-20 of US Patent 6426444; and
3. Claims 1, 4-7, 9-13, and 16-26 stand rejected over claims 1-24 of US Patent 6586652.

Applicants respectfully traverse the rejections because the claims of the present invention are patentably distinct from the claims of each of the aforementioned patents that are commonly owned with the present application. In order to simplify the issues in the present application, however, Applicants concurrently submit with this response the appropriate Terminal Disclaimer over the co-owned US patents. In submitting this Terminal Disclaimer, Applicants state for the record that this Terminal Disclaimer is not an admission of obviousness. In fact, the Federal Circuit has held that:

> [T]he filing of a terminal disclaimer "simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection."

Quad Envtl. Techs. Corp. v. Union San. Dist., 20 USPQ2d 1392 (Fed. Cir. 1991).

Applicants therefore submit that the obviousness-type double patenting rejections have been overcome.

CONCLUSION

Based on the foregoing statements, Applicants respectfully submit the new issues raised by the Office have been addressed in a satisfactory manner. Reconsideration and withdrawal of each of the rejections is respectfully requested. Allowance of each of the pending claims in the next Office Action is earnestly requested as well.

Respectfully submitted,
Roe et al.

By _____
Dara M. Kendall
Attorney for Applicants
Registration No. 43,709

April 22, 2004
Customer No. 27752